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8 **UNITED STATES DISTRICT COURT**  
9 **SOUTHERN DISTRICT OF CALIFORNIA**  
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11 KEITH R. BRIDGEWATER,

12 Petitioner,

13 vs.

14 A.K. SCRIBEN, Warden,

15 Respondent.  
16

Civil No. 07-1340 JAH (WMc)

**ORDER DISMISSING HABEAS  
PETITION WITHOUT PREJUDICE  
AS SECOND OR SUCCESSIVE**

17 On July 23, 2007, Petitioner, a state prisoner proceeding pro se, filed a Petition for Writ  
18 of Habeas Corpus pursuant to 28 U.S.C. § 2254. In this action Petitioner is challenging his  
19 October 28, 1996 Imperial County Superior Court conviction and sentence in Case No. CF-227.  
20 (*See* Pet. at 1.)

21 **PRIOR FEDERAL HABEAS PETITIONS DENIED ON THE MERITS**

22 On February 11, 2000, Petitioner's Petition for Writ of Habeas Corpus pursuant to 28  
23 U.S.C. § 2254 was transferred to this Court from the Central District and given case no.  
24 00cv0308 BTM (JAH). (*See* Petition in SO. DIST. CA. CIVIL CASE NO. 00cv0308 BTM (JAH).)  
25 In that petition, Petitioner also challenged his conviction and sentence in Imperial County  
26 Superior Court case No. CF-227. (*See id.* at 16.) On March 21, 2001, this Court dismissed the  
27 petition because it had been filed well after the expiration of the one-year statute of limitations.  
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(See Order filed 3/21/01 in SO. DIST. CA. CIVIL CASE NO. 00cv0308 BTM (JAH).) Petitioner has not appealed that determination.

**INSTANT PETITION BARRED BY GATEKEEPER PROVISION**

Petitioner is now seeking to challenge the same conviction he challenged in his prior federal habeas petition. Unless a petitioner shows he or she has obtained an order from the appropriate court of appeals authorizing the district court to consider a successive petition, the petition may not be filed in the district court. See 28 U.S.C. § 2244(b); *Murray v. Greiner*, 394 F.3d 78 (2d Cir. 2005) (holding that dismissal for failure to comply with one-year statute of limitations renders subsequent petitions challenging the same conviction or sentence “second or successive” under 2244(b)); *Reyes v. Vaughn*, 276 F.Supp.2d 1027, 1029 (C. D. Cal. 2003) (same). Here, there is no indication the Ninth Circuit Court of Appeals has granted Petitioner leave to file a successive petition.

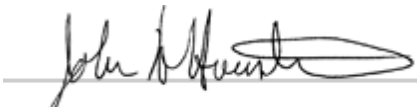
**CONCLUSION**

Because there is no indication Petitioner has obtained permission from the Ninth Circuit Court of Appeals to file a successive petition, this Court cannot consider his Petition. Accordingly, the Court **DISMISSES** this action without prejudice to Petitioner filing a petition in this court if he obtains the necessary order from the Ninth Circuit Court of Appeals. **THE CLERK OF COURT IS DIRECTED TO MAIL PETITIONER A BLANK APPLICATION TO FOR LEAVE TO FILE SECOND OR SUCCESSIVE PETITION UNDER 28 U.S.C. § 2254.**

The Clerk shall close the file.

**IT IS SO ORDERED.**

DATED: August 2, 2007

  
HON. JOHN A. HOUSTON  
United States District Judge